



City of Rockville
Rockville, Maryland

**REQUEST FOR PROPOSAL #20-19
PERFORMANCE AUDIT SERVICES**

Proposals Due by 2:00 P.M. (Eastern) on Tuesday, January 22, 2019

ISSUED BY:

Jessica J. Lewis, CPPB, MBA
Director of Procurement
Procurement Division
City of Rockville, City Hall
111 Maryland Avenue
Rockville, Maryland 20850
Phone: (240) 314-8430
Fax: (240) 314-8439

Any individual with a disability who would like to receive the information in this publication in another form may contact the ADA Coordinator at 240-314-8100, TDD 240-314-8137

MFD Outreach Program

It is the intent of the City of Rockville to increase opportunities for minority, female and disabled (MFD) owned businesses to compete effectively at supplying goods, equipment, and services to the City, within the constraints of statutory purchasing requirements, departmental needs, availability, and sound economic considerations. Suggested changes and MFD enhancements to this solicitation's requirements for possible consideration and/or inclusion in future solicitations are encouraged.

**CITY OF ROCKVILLE
ROCKVILLE, MARYLAND
REQUEST FOR PROPOSAL #20-19
Performance Audit Services**

In this RFP, the terms offeror, respondent, vendor and proposer are synonymous.

Sealed proposals addressed to the City of Rockville, Maryland to provide Performance Audit Services will be received at Rockville City Hall, Procurement Division, Attention: Jessica Lewis, Director of Procurement, 111 Maryland Avenue, Rockville, Maryland 20850 until **2:00 PM (Eastern), on Tuesday, January 22, 2019**. No proposals will be accepted after that time.

The City will not accept fax proposals or proposals sent via e-mail. All faxed or e-mailed proposals will be rejected and returned.

RECEIPT AND HANDLING OF PROPOSALS

The offeror assumes full responsibility for the timely delivery of the proposal to the designated location. Proposals delivered to any other office or location will not be considered.

In accordance with Chapter 17 of the City's Procurement Ordinance, competitive sealed proposals are not publicly opened or otherwise handled so as to permit disclosure of the identity of any offeror or the contents of any proposal to competing offerors during the evaluation process. The proposals, except for information identified by the offeror as proprietary, shall be open for public inspection after the contract award.

PROPOSAL DOCUMENTS

The proposal documents are available several ways:

Download the document from the City website at <http://www.rockvillemd.gov/Bids.aspx> or eMaryland Marketplace at <https://emaryland.buyspeed.com/bsol/>

Visit the Procurement Division and pick up a proposal packet between the hours of 8:30 A.M. and 5:00 P.M., Monday through Friday, excluding government holidays. We are located at Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland 20850.

PRE-PROPOSAL MEETING

No pre-proposal meeting is scheduled for this project.

SUBMITTAL OF QUESTIONS

Prospective offerors are requested to submit any questions no later than **5:00 PM (Eastern), on Friday, December 21, 2018**, to Jessica Lewis, Director of Procurement, via e-mail at jjlewis@rockvillemd.gov. Oral answers to questions relative to interpretation of requirements or the proposal process will not be binding on the City. The City reserves the right to include questions and responses in the form of written Addendums, as it deems necessary.

SITE LOCATION

Primarily Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland 20850.

NOTICE TO OFFERORS

"Pursuant to 7-201 et seq of the Corporations and Associations Article of the Annotated Code of Maryland, corporations not incorporated in the State shall be registered with the State Department of Assessments and Taxation, 301 West Preston Street, Baltimore, MD 21201 before doing any interstate or foreign business in this State. Before doing any intrastate business in this State, a foreign corporation shall qualify with the Department of Assessments and Taxation." Bidders must supply with their bids their US Treasury Department Employer's Identification Number as such number is shown on their Employer's Quarterly Federal Tax Return (US Treasury Department Form No. 941). Companies located outside Maryland should call 1-410-767-1006, or e-mail: charterhelp@dat.state.md.us.

QUALIFICATIONS TO CONTRACT WITH PUBLIC BODY

Bidders must be qualified to bid in the State in accordance with Section 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland which ordains that any person convicted of bribery (upon acts committed after July 1, 1977) in furtherance of obtaining a contract from the State or any subdivision of the State of Maryland shall be disqualified from entering into a contract with the City.

DISABILITY INFORMATION

Any individuals with disabilities who would like to receive the information in this document in another form may contact the ADA Coordinator at (240) 314-8100; TDD (240) 314-8137.

W-9 FORM REQUIRED

Successful respondents are required to complete and submit a W-9 Form. The W-9 form can be accessed at: <http://www.irs.gov/pub/irs-pdf/fw9.pdf?portlet=3>. It is the successful respondent's responsibility to act upon this instruction for submitting a W-9 form. The City will not be able to process payments if this form is not completed and submitted to the Procurement Division.

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SECTION I

Introduction/Overview

A. Purpose/Objective

The City of Rockville is seeking the professional services of an experienced contractor to conduct a variety of performance audit services, on an as-needed basis, in response to requests from the Mayor and Council and/or the City Manager. The audit services could include financial, compliance, operational, investigative or other performance audits. The City desires to enter into a professional services contract with a qualified proposer who can demonstrate competency and experience in providing performance audit services for local governments. The City will assign each specific performance audit work assignment on an Engagement Task Order basis.

B. Term of Contract

The term of the contract awarded from this RFP shall be for a period of one (1) year. If the City determines it to be advantageous, it may extend the term of the contract for up to four (4) one-year periods.

C. Background

The City of Rockville is the third largest City in Maryland with a population of approximately 69,000 residents in approximately 28,000 residential units. It occupies 13.5 square miles within the metropolitan Washington, D.C. area, and is located 12 miles northwest of the nation's capital and 35 miles southwest of Baltimore. Rockville possesses a strong sense of community and quality of life. It benefits from a highly-educated, ethnically-diverse and engaged citizenry, stable neighborhoods and a vibrant mixed-use downtown. The City has an employed labor force of over 80,000, with a major portion of the prestigious Interstate 270 biotechnology corridor located within the City's corporate limits.

The City of Rockville operates under the council-manager form of municipal government and derives its governing authority from a charter granted by the General Assembly of Maryland. The governing body is the Mayor and Council, which formulates policies for the administration of the City. The Mayor and Council are comprised of one Mayor and four councilmembers that are elected at-large every four years. The Mayor and Council appoint the City Manager to serve as the City's chief executive officer.

The Adopted Fiscal Year 2019 (FY19) annual operating budget is \$136.2 million and a five-year capital improvements program (FY19-23) totals \$67.7 million. The City employs 518 regular full-time employees.

Rockville provides a full range of municipal services including police, refuse and recycling, water, sewer, and stormwater, street maintenance and other public works functions, recreation programming, parks and facilities, special programs for senior citizens, youth and low-income residents, commercial and residential code enforcement, planning and zoning, and community development.

For general information about the City, the Mayor and Council, and City departments, please visit the City's web site at <http://www.rockvillemd.gov>.

D. Statement of Work

1. Scope of Work

- a. The City of Rockville is seeking the professional services of an experienced contractor to conduct a variety of performance audit services, on an as-needed basis, in response to requests from the Mayor and Council and/or the City Manager. The audit services could include financial, compliance, operational, investigative or other performance audits.
- b. The performance audits should entail objective and systematic examination of evidence to provide an independent assessment of the performance and management of a program or function against objective criteria.
- c. The performance audits may entail a broad or narrow scope of work, apply a variety of methodologies, and involve various levels of analysis, research, or evaluation. The work will be summarized in a report with findings, conclusions, and recommendations. A presentation to the Mayor and Council and/or City Manager may be requested.
- d. The performance audits could encompass a wide variety of objectives, including assessing program effectiveness and results, economy and efficiency, internal control, compliance with legal or other requirements or other analysis.
- e. The performance audits will provide information to improve program operations and facilitate decision making by parties with responsibility to oversee or initiate corrective actions, and improve public accountability.

2. Contractor Responsibilities

- a. Maintain a pool of highly qualified performance auditors at all levels (Associate, Senior, Manager, Partner) assigned to provide professional services to meet the City's performance audit efforts;
- b. Notify the City in writing of any changes of staffing from those listed in the contract. The City will not compensate the contractor for hours incurred to train new staff members assigned.
- c. At the request and direction of the City, use experienced performance auditors to develop performance audit plans and engagement proposals, to be approved by the City in the form of Engagement Task Orders;
- d. Execute fully defined Engagement Task Orders that deliver the agreed performance audit services to the City's approval;
- e. Provide performance and resource management of performance audit services, including related reporting, under the direction of the City;
- f. Work with the City to remain cost conscious of task orders, remaining within the budget constraints of the City; and

- g. Maintain a set of intellectual materials (studies, white papers, opinions, recommendations, strategies, plans, approaches, policies and practices, a knowledge database, applied experience documentation, organizational technology, relationships, and professional skills, etc.) to support performance audit services and make the material available for use by the City;
- h. Conduct the work under applicable professional standards, including:
 - Federal and State rules and regulations,
 - Generally Accepted Government Auditing Standards (GAGAS i.e. the “Yellow Book”),
 - Standards for the Professional Practice of Performance Auditing and Local Governmental Units,
 - The latest American Institute of Certified Public Accountants (AICPA) industry guide: Audits of State and Federal and Maryland State rules and regulations,
 - Government Accounting, Auditing, Financial Reporting (GAAFR),
 - The Federal Information System Controls Manual,
 - The National Institute of Standards and Technology (NIST),
 - The Institute of Internal Auditors (IIA),
 - Information Systems Audit and Control Association (ISACA),
 - International System Security Certification Consortium,
 - Committee on Sponsoring Organizations (COSO),
 - Other applicable regulation or guidelines.

3. Audit Engagements

The awarded contractor must be able to conduct a wide variety of performance audit engagements, in accordance with the following provisions. Because of critical time considerations, efficiency, or other circumstances, the City reserves the right to modify these provisions when it is in the best interest of the City.

- a. The contractor shall not commence the service for any project until a task order has been executed and a Notice to Proceed has been issued for that project.
- b. For each task or audit assigned, the contractor shall submit for approval before field work commences: an audit plan with detailed audit steps, personnel assignments, an estimate of hours, total cost and dates for completing various audit milestones and deliverables. If during an audit, the contractor reasonably determines that the hours to complete the task will exceed the originally approved estimated hours, the contractor must submit a written request to approve the additional time. The contractor’s written request must include all reasons for the additional time, as well as the new estimate of hours to complete the task.
- c. The contractor shall arrange the entrance conference that is attended by the contractor and City staff identified by the City.
- d. The contractor and designated City staff shall have periodic progress meetings during the audit. The contractor should submit a status report on a monthly basis.

- e. The contractor shall prepare a draft report based on the findings identified during fieldwork. The findings must be fully documented in the contractor's work papers. The contractor must produce audit reports and other deliverables of exceptional high quality.
- f. The contractor shall send the draft report to the designated City staff for review and comment.
- g. The contractor shall arrange an exit conference with appropriate City staff. At the exit conference, the auditee will be requested to provide a written response to the draft report within a specified time frame to the contractor, with a copy to the City. This response shall be communicated electronically and in hard copy.
- h. The contractor, in conjunction with the designated City staff, will review the auditee's response to determine if a rebuttal is warranted.
- i. If a rebuttal is warranted, the contractor shall prepare it and include it after the auditee's response.
- j. The contractor shall incorporate the auditee response into the final report.
- k. The contractor shall invoice the City when each deliverable has been accepted. Typical deliverables include the audit plan, the draft audit report and the final audit report. An itemized listing of hours spent on the project is to accompany the deliverables to the City.
- l. The contractor shall provide a hard copy and an electronic copy of the final audit report.
- m. The contractor shall perform engagement performance management and maintain related records and reports of its performance that include on-time milestones, within budget measurement, Client value indicator, lost time measurement, and client satisfaction survey results.
- n. In the event of the contractor's failure to comply with the established date of completion, the City reserves the right to make an open market purchase of the services. In addition to other remedies that are available to the City, the City may seek damages from the contractor in the amount of the difference between the costs to the City had the contractor performed the service and the actual costs incurred in order to complete the services.
- o. Any project placed prior to, but not completed by the expiration date of the contract, will be completed by the contractor with all compensation and provisions of the contract still in force and effect until completion.

4. Deliverables

- a. The contractor shall prepare and submit audit plans and audit reports. Audit reports shall be tailored to the requirements of the specific audit. However, reports will include but will not be limited to these sections:

- Executive Summary,
 - Background,
 - Objectives, Scope and Methodology,
 - Findings,
 - Recommendations, and
 - Auditee Response.
- b. Reports are to be prepared in a clear and concise manner. Detailed information is to be included in the body of the findings. When preparing the findings section in the audit report, the first sentence of each finding is to contain a synopsis of the finding, followed by detail information to fully support the finding. Recommendations are to be fully supported by and consistent with the findings.
- c. The contractor will provide to the City a hard copy, as well as an electronic copy of the final report. The contractor will provide, in certain cases, a copy of the final report cross indexed to the contractor's work papers, when requested.
- d. The City will not compensate the contractor for time spent on revisions due to incorrect and/or poorly prepared written deliverables. When assigned a project, the contractor is to report monthly the hours used on the project and agreed performance indicators. With the submission of the deliverable, the contractor is to submit an itemized listing of hours with dates and descriptions of time utilized, and with the corresponding contractor personnel names to determine the number of hours used for the project to date and related performance level indicators.
- e. Work papers are to clearly document interviews, audit steps, results of audit steps, audit findings and other documentation as relevant. The audit work papers shall be retained by the City. At the time the contractor submits their draft report, the City shall have the right to review the contractor's work papers. Should the City reject a report, the contractor will be notified in writing of such rejection giving the reason(s). The right to reject a report shall extend throughout the term of the contract, and thereafter, if applicable, until completion of the audit and acceptance by the City.
- f. Upon completion of the final report, the contractor may be requested to provide a presentation to the Mayor and Council and/or City Manager on key findings and recommendations.

5. City's Responsibilities

- a. For each engagement, the City responsibilities include, but are not limited to, the following:
- Providing the Engagement Task Orders;
 - Approving the audit plan, including objectives, scope, and methodology, as prepared by the contractor;
 - Commenting, reviewing and approving engagement letters;
 - Notifying the contractor to proceed with the assignment;

- Conducting periodic progress meetings with the contractor, including performance level indicators;
 - Assigning additional work based on information obtained during the preliminary work;
 - Acting as a mediator between the auditee and the contractor;
 - Reviewing the contractor's draft audit report (or other engagement product) and providing comments on the draft;
 - Reviewing the final draft report and notifying the contractor to finalize the audit report;
 - Participating in performance management activities and client performance surveys as appropriate; and
 - Approving the contractor's invoice for payment.
- b. The contractor will be given access to records of the City, and reasonable access to the staff for the purpose of interviews and the verification of items, within the terms of the audits. It is expected that the contractor will organize the work in such a way as to minimize disruption of work of the City employees in the pursuit of their normal duties.

E. Proposer Minimum Qualifications

Proposers must meet the following criteria to be considered for selection:

1. At least five (5) years of experience providing a wide range of performance audit services to state, local government, non-profit, or commercial entities, with a focus on local government performance audit experience;
2. Ability to quickly respond to expedited audit requests;
3. Ability to prepare and provide audit reports for engaged tasks in accordance with applicable standards;
4. Ability to demonstrate quality control procedures;
5. Ability to demonstrate that audit work papers and information is securely maintained and kept confidential;
6. Ability to provide a narration on the auditing process and work papers' documentation to include but not limited to the following:
 - a. Document the process for conducting interviews and establishing findings during the audit;
 - b. Provide policies and practices on entrance and exit conferences during the audit; and
 - c. Describe the method of communicating internal control weaknesses.
7. Ability to demonstrate monitoring procedures for assuring the independence of management and employees;

8. Ability to demonstrate compliance with continuing professional education standards established by generally accepted government auditing standards (GAGAS 3.46); and
9. Competent technology skills in Microsoft Office Suite and data extraction programs.

F. Projected Project Schedule

| <u>DESCRIPTION</u> | <u>TARGET DATE</u> |
|--|---------------------------|
| RFP Issued | December 10, 2018 |
| Proposer's technical questions due via email | December 21, 2018 |
| Addendum to RFP issued, if required | January 3, 2019 |
| Proposals due to the City | January 22, 2019 |
| Proposer oral presentations, if required | Week of February 18, 2019 |
| Proposer discussions/negotiations | Week of March 4, 2019 |
| Contract Award | Week of April 1, 2019 |

The target dates provided are estimates and may be subject to change during the process.

G. Procurement Contact

The sole point of contact at the City for purposes of this RFP, prior to the award of any contract is, Jessica Lewis, Director of Procurement:

Jessica Lewis, Director of Procurement
City Hall - Procurement Division
111 Maryland Avenue
Rockville, MD 20850
Telephone: (240) 314-8432
Email: jjlewis@rockvillemd.gov

H. Contract Administrator

The designated contract administrator following contract award will be:

Sara Taylor-Ferrell
City Clerk/Director of Council Operations
111 Maryland Avenue
Rockville, MD 20850
Telephone: (240) 314-8283
Email: sferrell@rockvillemd.gov

SECTION II

Request for Proposal

Proposal Submission

A. Procedures

One (1) electronic and four (4) printed copies of the sealed proposal marked “RFP #20-19, Performance Audit Services” must be submitted to:

Jessica Lewis, Director of Procurement
Procurement Office
Rockville City Hall
111 Maryland Avenue
Rockville, Maryland 20850

To provide each proposer an equal opportunity for consideration, adherence to a standardized proposal format is required. Individual, separate and complete proposals must be submitted and must contain the following elements organized into separate tabs or sections, as deemed appropriate. Failure to adhere to this format may result in the disqualification of your proposal(s).

Each proposal shall adhere to the order presented below. Each section within the proposal submittal, following the transmittal letter and table of contents, shall be separated by tabs or sections and include, at a minimum:

1. **Transmittal Letter:** The letter should include the address of the office which would provide the services requested, telephone number, fax, e-mail address and website, if applicable. The letter should be signed by an individual who is authorized to commit the proposer to the services, pricing and requirements as stated in this RFP.
2. **Table of Contents:** A table of contents shall outline all contents contained within the proposal submittal.
3. **Tab 1 – Proposal Acknowledgment/Amendments:** This section shall include the completed proposal acknowledgement form and any amendments (addenda) to the solicitation provided as ATTACHMENT A.
4. **Tab 2 - Identifications of Confidential, Proprietary Commercial Information or Trade Secrets:** If applicable, information the proposer claims to be confidential, proprietary commercial information or trade secrets shall be identified in this section. This information, along with any claim of confidential financial information, should also be disclosed. The proposer must include an explanation for each individual claim of confidentiality.
5. **Tab 3 - Work Plan and Project Approach:** This section shall include a well-defined work plan consistent with the project objectives and scope of work, demonstrating the ability and the strategy that will be used to complete the elements as outlined within the scope of work. The proposer must provide the basic approach to performance auditing including:
 - a. How it proposes to optimize the matching of resources to assignments and the timing of a Performance Audit request and the availability of its resources to perform the service and related flexibility;

- b. The various audit services/work that would be allocated to each respective professional level (partner, manager, supervisor, senior and semi-senior member, etc.);
 - c. Average expected lead times for individual Performance Audit resource assignments;
 - d. The ongoing staff resource management approach, methods, policies and procedures;
 - e. The performance management approach, methods, policies and procedures needed for ongoing delivery and continuous improvement of Performance Audit services.
6. **Tab 4 – Personnel and Technical Qualifications:** Submit technical qualifications of the proposer and staff involved in this project.
- a. Brief history of the proposer and its structure (include organizational charts);
 - b. Describe the delivery team, including any subsidiary and/or affiliate companies that will be used to satisfy the requirements of this RFP. Describe their roles on the service team and describe their capabilities to provide the services for which they are being utilized. Include a list of all existing staff resources and staff resourcing methodologies, including sub-contracting for audit assignments and related task work;
 - c. Provide the proposer's qualifications, requirements and selection criteria for personnel (including sub-consultants, if applicable) anticipated to be used as performance auditors that may fulfill the services requested under this contract;
 - d. Provide resumes of audit principals and key personnel (including sub-consultants, if applicable) anticipated to be used to fulfill the services requested. Resumes shall be limited to individuals who will be assigned and working on the project. Each individual resume should be limited to a maximum of one page. The resumes shall include information about pertinent expertise. If the personnel are providing services from a branch office, identify the office from which the services will be delivered and provide the appropriate contact information for this branch;
 - e. Describe proposer's background checks on employees and any subcontractor employed;
 - f. Describe any current litigation resulting from professional services provided by the proposer; and
 - g. List of client relationships, to include public sector clients, that have been terminated in the last 12 months and the reasons each was terminated. (For proposers with multiple locations, please provide the list based on the local office to be utilized for services).
7. **Tab 5 – References:** A minimum of 5 current references with physical addresses, phone

numbers, and email addresses (if available) should be provided. They should represent the most significant projects performed in the last five years that are similar to the project described in this request for proposal. The references may be both in the private or public sector, with at least two in the public sector.

8. **Tab 6 - Fee Proposal:** The fee proposal shall be submitted to include the following:
 - a. Proposed hourly rates by experience level of the staff person(s) assigned to complete the approved task order(s), for the first year of the contract and four additional potential contract years. If the proposer has rates that are different for its peak and non-peak season, the proposer shall provide both sets of rates. In addition, if the proposer has a weekly or monthly rate, the proposer shall include these rates.
 - b. Proposed prices for years 2 to 5 may not exceed the amount of the annual percentage change of the U.S. Bureau of Labor Statistics, Employment Cost Index Employment Cost Index – Private Industry, Wages and Salaries, 12-month Percent Change, Not Seasonally Adjusted – CIU202000000000A for the twelve-month period immediately prior to the date of the request.
 - c. The price proposal shall include, in addition to the fee structure, any additional costs that the proposer anticipates would be charged, such as administrative fees. No additional payment will be made for travel related expenses.
9. **Tab 7 – Subcontracting:** This section should identify any of the required services that the proposer intends to subcontract, if any, providing the following information:
 - a. Reason for subcontracting.
 - b. Proposed subcontractor responsibilities.
 - c. Identity and descriptive information of proposed subcontractors, including location, relevant personnel and experience, previous use as a subcontractor, and any other relevant supporting information.
10. **Tab 8 – Required Forms/Additional information:**
 - a. Submit a completed Affidavit form (ATTACHMENT B).
 - b. Provide a statement that Offeror, if awarded the contract, will provide a certificate of insurance in accordance the City of Rockville Insurance requirements (ATTACHMENT C).
 - c. Each Offeror shall submit a completed W-9 form with their proposal. In the event of contract award, this information is required to issue purchase orders and payments to the contractor. A copy of this form can be downloaded from <http://www.irs.gov/pub/irs-pdf/fw9.pdf>.
 - d. Additional Information - Provide any additional information you wish to bring to the City's attention with respect to the proposer's qualifications.

Section III

Request for Proposal

Method of Award/Evaluation Criteria

A. Evaluation Process

The contract will be awarded in accordance with the competitive sealed proposals process under Rockville City Code 17.62. The competitive sealed proposals method is based on discussions and revision of proposals during these discussions. Award will be made to the qualified proposer obtaining the highest weighed score combining price and technical qualifications.

Accordingly, the City may hold discussions with all proposers judged reasonably susceptible of being selected for award, or potentially so. However, the City also reserves the right to make an award without holding discussions. In either case of holding discussions or not doing so, the City may determine a proposer to be not responsible and/or a proposer's proposal to be not reasonably susceptible of being selected for award, at any time after the initial closing date for receipt of proposals and the review of those proposals.

B. Evaluation Criteria

1. Written Proposal Evaluation

The Evaluation Committee will evaluate the written proposal based on the following criteria.

| Criteria | Points |
|---|--------|
| Experience: Proposers will be evaluated per their current and past experience and performance with comparable projects. | 30 |
| Qualifications of Proposed Personnel: The professional qualifications and accessibility of the proposer's professional personnel to be assigned to manage and conduct performance audits. | 20 |
| Project approach: The proposal will be evaluated based on compliance with RFP requirements, technical approach in conducting performance audits and providing deliverables. | 30 |
| Cost: This criterion considers the price of services solicited by this RFP. Proposers will be evaluated on their pricing scheme as well as on their price in comparison to other Proposers. | 20 |
| Total Points | 100 |

2. Interview Evaluation Criteria

| Criteria | Points |
|---|--------|
| Quality of presentation, ability to articulate relevant company experience, and ability to demonstrate overall understanding of the scope of work and City's needs. | 50 |
| Ability to communicate project approach and technical concepts for conducting performance audits. | 50 |
| Total Points | 100 |

Clarification of Offers

An evaluation committee will evaluate the proposals from information on hand and may also ask questions to clarify information from proposers as required. A composite rating will be developed which indicates the proposer's collective ranking of the highest rated proposals in a descending order.

In order to determine if a proposal is reasonably susceptible for award, communications by the Procurement contact are permitted with a proposer to clarify uncertainties or eliminate confusion concerning the contents of a proposal. Clarifications may not result in a material or substantive change to the proposal. The evaluation by the proposal evaluation committee may be adjusted as a result of a clarification under this section.

Interviews/Discussions

The Evaluation Committee may afford one (1) or more proposers an opportunity to make oral presentations to clarify their proposals. If requested, oral presentations shall be made at no cost to the City. Key personnel listed in the proposal are required to attend the interview.

Best and Final Offer

When deemed in the best interest of the City, and upon conclusion of any oral presentations and/or negotiations, the proposer(s) may be asked to submit in writing, a Best and Final Offer (BAFO). After the BAFO is submitted, no further negotiations shall be conducted with the proposer(s).

Note: Proposers are discouraged from submitting inflated pricing in their original response in anticipation of price negotiation and the use of a BAFO process. The BAFO process may or may not be used, or may be used on a case-by-case basis to negotiate services, deliverables, pricing terms conditions, etc. with individual respondents. Placing inflated pricing in your original response may produce a low scoring result, which prevents your proposal from reaching the negotiation stage of the evaluation process.

The City of Rockville reserves the right to reject any and all proposals and to accept the proposal the City considers most advantageous. All proposals will become the property of the City.

SECTION IV

Request for Proposal

Attachments

Attachment A: Proposal Acknowledgment

The undersigned agrees that all the terms and conditions of this solicitation and offer may, at the City's option, be made applicable in any contract issued as a result of this solicitation.

Business Firm's Typed Name: _____

Name and Title of Person
Authorized to Sign Proposal: _____

Signature: _____ Date: _____

Corporate Attestation or SEAL *here*

Signature: _____ Date: _____
(Corporate officer other than above)

Name and Title of Person
Attesting to Authorized Signature: _____

NAME AND SIGNATURE REQUIREMENTS FOR PROPOSALS AND CONTRACTS

The correct legal business name of the proposer must be used in all contracts. A trade name (i.e., a shortened or different name under which the firm does business) should not be used when the legal name is different.

Corporations must have names that comply with State Law. The proposer's signature must conform to the following:

Where the proposer is a corporation, a corporate seal is required.

Where the proposer is a partnership, at least one general partner must sign.

Where the proposer is a sole proprietor, the owner of the company must sign.

ACKNOWLEDGMENT OF SOLICITATION AMENDMENTS

Please note, that it is the proposer's responsibility to check the City' website frequently for Addendums, which may impact pricing, this documents requirements, terms and/or conditions. Failure to sign and return an Addendum with your response may result in disqualification of proposal.

The proposer acknowledges receipt of the following amendment(s) to the solicitation:

Amendment Number/Date: _____

Amendment Number/Date: _____

Amendment Number/Date: _____

ATTACHMENT B
A F F I D A V I T

I hereby affirm that:

I am the _____ and the duly authorized representative of the firm of _____
whose address is _____

and that I possess the legal authority to make this affidavit on behalf of myself and the firm for which I am acting.

I further affirm:

**AFFIDAVIT OF QUALIFICATION TO
CONTRACT WITH A PUBLIC BODY**

1. Except as described in Paragraph 2 below, neither I nor the above firm nor, to the best of my knowledge, any of its controlling stockholders, officers, directors, or partners, performing contracts with any public body (the State or any unit thereof, or any local governmental entity in the state, including any bi-county or multi-county entity), has:

A. been convicted under the laws of the State of Maryland, any other state, or the United States of any of the following:

- (1) bribery, attempted bribery, or conspiracy to bribe.
- (2) a criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract.
- (3) fraud, embezzlement, theft, forgery, falsification or destruction of records, or receiving stolen property.
- (4) a criminal violation of an anti-trust statute.
- (5) a violation of the Racketeer Influenced and Corrupt Organization act, or the Mail Fraud Act, for acts in connection with the submission of bids or proposals for a public or private contract.
- (6) a violation of Section 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland.
- (7) conspiracy to commit any of the foregoing.

B. pled nolo contendere to, or received probation before verdict for, a charge of any offense set forth in subsection A of this paragraph.

C. been found civilly liable under an anti-trust statute of the State of Maryland, another state, or the United States for acts or omissions in connection with the submission of bids or proposals for a public or private contract.

D. during the course of an official investigation or other proceeding, admitted, in writing or under oath, an act or omission that would constitute grounds for conviction or liability under any law or statute described in subsection A or C of this paragraph.

2. [State "none," or as appropriate, list any conviction, plea or admission as described in Paragraph 1 above, with the date, court, official or administrative body, the individuals involved and their position with the firm, and the sentence or disposition, if any]. _____

3. I further affirm that neither I nor the above firm shall knowingly enter into a contract with the Mayor and Council of Rockville under which a person or business debarred or suspended from

contracting with a public body under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland, will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

I acknowledge that this Affidavit is to be furnished to the Mayor and Council of Rockville and, where appropriate, to the State Board of Public Works and to the Attorney General. I acknowledge that I am executing this Affidavit in compliance with the provisions of Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland which provides that persons who have engaged in certain prohibited activity may be disqualified, either by operation in law or after a hearing, from entering into contracts with the Mayor and Council of Rockville. I further acknowledge that if the representations set forth in this Affidavit are not true and correct, the Mayor and Council of Rockville may terminate any contract awarded, and take any other appropriate action.

NON—COLLUSION AFFIDAVIT

1. Am fully informed respecting the preparation and contents of the attached bid and of all pertinent circumstances respecting such bid;

2. Such bid is genuine and is not a collusive or sham bid

3. Neither the said bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other bidder, firm or person to submit a collusive or sham bid in connection with the Contract for which the attached bid has been submitted or to refrain from bidding in connection with Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other bidder, firm or person to fix the price or prices in the attached bid or of any other bidder, or to fix any overhead, profit or cost element of the bid price or the bid price of any other bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the Mayor and Council of Rockville, Maryland (Local Public Agency) or any person interested in the proposed Contract; and
4. The price or prices quoted in the attached bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

I do solemnly declare and affirm under the penalties of perjury that the contents of these affidavits are true and correct.

Signature and Title _____ **Date** _____

RETURN THIS FORM WITH PROPOSAL

(ATTACHMENT C)
INSURANCE REQUIREMENTS

INSURANCE REQUIREMENTS REV2 (09/08)

Prior to the execution of the contract by the City, the Contractor must obtain at their own cost and expense and keep in force and effect during the term of the contract including all extensions, the following insurance with an insurance company/companies licensed to do business in the State of Maryland evidenced by a certificate of insurance and/or copies of the insurance policies. The Contractor's insurance shall be primary.

The Contractor must submit to the Purchasing Division, 111 Maryland Avenue, Rockville, MD 20850 a certificate of insurance prior to the start of any work. In no event may the insurance coverage be less than shown below.

Unless otherwise described in this contract the successful contractor and subcontractors will be required to maintain for the life of the contract and to furnish the City evidence of insurance as follows:

MANDATORY REQUIREMENTS FOR INSURANCE

Contractor's insurance coverage shall be primary insurance as respects the City, its elected and appointed officials, officers, consultants, agents and employees and any insurance or self-insurance maintained by the City, shall be excess of the Contractor's insurance and shall not be called upon to contribute with it.

| Type of Insurance | Amounts of Insurance | Endorsements and Provisions |
|---|---|--|
| 1. Workers' Compensation 2. Employers' Liability | Bodily Injury by Accident: \$100,000 each accident Bodily Injury by Disease: \$500,000 policy limits Bodily Injury by Disease: \$100,000 each employee | Waiver of Subrogation: WC 00 03 13 Waiver of Our Rights to Recover From Others Endorsement – signed and dated. |
| 3. Commercial General Liability a. Bodily Injury b. Property Damage c. Contractual Liability d. Premise/Operations e. Independent Contractors f. Products/Completed Operations g. Personal Injury | Each Occurrence: \$1,000,000 | City to be listed as additional insured and provided 30 day notice of cancellation or material change in coverage. CG 20 37 07 04 and CG 20 10 07 04 forms to be both signed and dated. |
| 4. Automobile Liability a. All Owned Autos b. Hired Autos c. Non-Owned Autos | Combined Single Limit for Bodily Injury and Property Damage - (each accident): \$1,000,000 | City to be listed as additional insured and provided 30 day notice of cancellation or material change in coverage. Form CA20 48 02 99 form to be both signed and dated. |
| 5. Excess/Umbrella Liability | Each Occurrence/Aggregate: \$1,000,000 | City to be listed as additional insured and provided 30 day notice of cancellation or material change in coverage. |
| 6. Professional Liability | Each Occurrence/Aggregate: \$1,000,000 | |

Alternative and/or additional insurance requirements, when outlined under the special provisions of this contract, shall take precedence over the above requirements in part or in full as described therein.

POLICY CANCELLATION

No change, cancellation or non-renewed shall be made in any insurance coverage without a thirty (30) day written notice to the City Purchasing Division. The Contractor shall furnish a new certificate prior to any change or cancellation date. The failure of the Contractor to deliver a new and valid certificate will result in suspension of all payments and cessation of on-site work activities until a new certificate is furnished.

ADDITIONAL INSURED

The Mayor and Council of Rockville, which includes its elected and appointed officials, officers, consultants, agents and employees must be named as an additional insured on the Contractor's Commercial and Excess/Umbrella Insurance for liability arising out of contractor's products, goods, and services provided under this contract. Additionally, The Mayor and Council of Rockville must be named as additional insured on the Contractor's Automobile and General Liability Policies. Endorsements reflecting the Mayor and Council of Rockville as an additional insured are required to be submitted with the insurance certificate.

SUBCONTRACTORS

All subcontractors shall meet the requirements of this Section before commencing work. In addition, Contractor shall include all subcontractors as insured's under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage's for subcontractors shall be subject to all of the requirements stated herein.

CERTIFICATE HOLDER

The Mayor and Council of Rockville
(Contract #, title)
City Hall
111 Maryland Avenue
Rockville, MD 20850

ATTACHMENT D
SAMPLE CONTRACT FORM – DO NOT RETURN

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, made this *[insert day]* day of *[insert month]* by and between the **MAYOR AND COUNCIL OF ROCKVILLE**, a municipal corporation organized under the laws of Maryland, hereinafter referred to as the "CITY", and *[insert contractor's full legal name]*, hereinafter referred to as "**CONTRACTOR**".

WITNESSETH

WHEREAS, the City desires the Contractor to provide *[insert description]*.

WHEREAS, the City desires to employ the services of the Contractor in connection with the aforementioned service under the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the covenants and promises set forth, the parties hereto agree as follows:

1. **SCOPE OF WORK.** The Contractor agrees to perform the work described and be bound by the terms and conditions set forth in *[insert RFP no. and description]*, to include *[list all addenda]*, hereto attached and made a part hereof and identified as Exhibit "A" and in the CONTRACTOR'S proposal dated *[insert date]*, hereto attached a made a part hereof and identified as Exhibit "B", and in the CONTRACTOR'S best and final offer (BAFO) dated *[insert date]* hereto attached and made part hereof and identified as Exhibit "C". In the event any terms of the attached exhibits conflict with this Agreement, this Agreement shall prevail over the aforementioned exhibits. In the event the terms of any of the exhibits conflict with each other, then Exhibit "C" shall prevail over both Exhibits "B" and "A". In the event the terms of Exhibit "B" conflict with Exhibit "A", then Exhibit "A" shall prevail over Exhibit "B". In the event of a conflict in the terms contained in the documents in Exhibit "C", the terms of the most recently dated document shall prevail.

The Contractor shall perform the services described in this Agreement (a) in a timely, diligent and professional manner in accordance with recognized standards of the applicable industry or profession, and; (b) in accordance with the time periods set forth in this Agreement and in the schedule and sequencing specified by the City. Contractor shall furnish efficient business administration and superintendence and shall use its best efforts to ensure that such services being performed under this Agreement are completed in the best way and in the most expeditious and economical manner consistent with the City's best interests.

2. **REVIEW BY CITY.** The Contractor agrees that the work and records covered by this Agreement will be subject to review, at all times, by representatives of the City.

3. **OWNERSHIP RIGHTS.** All finished or unfinished documents, data, studies, surveys, drawings, CADD drawings, maps, models, photographs, letters and reports prepared by the Contractor or its subcontractors shall become the property of the City.

4. **EQUAL EMPLOYMENT OPPORTUNITY.** The Contractor will not discriminate against any employee or applicant for employment because of age (in accordance with applicable law), ancestry, color, national origin, race, ethnicity, religion, disability, genetics, marital status, pregnancy, presence of children, gender, sexual orientation, gender identity or expression, or veteran status. The Contractor will take affirmative

ATTACHMENT D
SAMPLE CONTRACT FORM – DO NOT RETURN

action to ensure that applicants are employed, and the employees are treated fairly and equally during employment with regard to the above. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment, layoff or termination, rates of pay or other form of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. Contractors must also include the same nondiscrimination language in all subcontracts.

If the Contractor fails to comply with nondiscrimination clauses of this contract or fails to include such contract provisions in all subcontracts that subcontractors will not discriminate against any employee or applicant for employment in the manner described above, this contract may be declared void AB INITIO, cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further contracts with the City of Rockville. Any employee, applicant for employment, or prospective employee with information concerning any breach of these requirements may communicate such information to the City Manager who shall commence a prompt investigation of the alleged violation. Pursuant to such investigation, the Contractor will permit access to the Contractor's books, records, and accounts. If the City Manager concludes that the Contractor has failed to comply with nondiscrimination clauses, the remedies set out above may be invoked.

5. INDEMNIFICATION. The Contractor agrees to indemnify and save harmless the City against any liability, claim, demand for personal injury or property damage, and other expenses or losses suffered or arising out of or caused by any negligent act or omission of the Contractor, its subcontractors, servants, agents or employees incurred in the performance of the Agreement.

6. TIME OF ESSENCE. The Contractor acknowledges that time is of the essence in providing the services under this Agreement and agrees to assign adequate personnel sufficient to respond to requests for service.

7. CONTRACT TERM. This Agreement shall be effective upon execution of the contract and shall continue through June 30, 2021, with two (2) one year renewal options, subject to the annual review of the Chief Financial Officer, the satisfactory performance of the Offeror, the concurrence of the Rockville City Council and the annual availability of an appropriation.

8. TERMINATION FOR CONVENIENCE. The City may terminate this Agreement for convenience by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. If the Agreement is terminated by the City as provided in this Section the Contractor will be paid on a pro-rata basis for work performed prior to the effective date of such termination.

9. TERMINATION FOR CAUSE. If through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligation under this Agreement, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Agreement, the City shall thereupon have the right to terminate this Agreement by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. If the Agreement is terminated by the City as provided in this Section the Contractor will be paid an amount based on the number of hours actually worked at the hourly rates set forth herein, or if no hourly rate is set forth, Contractor shall be paid on a pro-rata basis for work performed. Notwithstanding the above, the Contractor shall not be relieved of

ATTACHMENT D
SAMPLE CONTRACT FORM – DO NOT RETURN

liability to the City for damages sustained by the City by virtue of any breach of the Agreement by the Contractor, and the City may withhold any payments due the Contractor up to the full amount of the Contractor's fee, until such a time as the exact amount of damages due the City from the Contractor is determined by any Court of competent jurisdiction.

10. COMPLIANCE WITH LAWS. The Contractor shall observe and comply with Federal, State, County and local laws, ordinances and regulations that affect the work to be done herein, and shall indemnify and hold the City harmless, and all of its officers, agents and servants against any claim or liability from or based on the violation of any such law, ordinance or regulation, whether by the Contractor or the Contractor's agent. Notwithstanding the foregoing, in the event that the Contractor determines that a conflict exists between any applicable law, ordinance and/or regulation, the Contractor will so advise the City and the City will decide which law, ordinance and/or regulation shall be followed.

11. SUBCONTRACTS. None of the services covered by this Agreement shall be subcontracted without the prior written consent of the City. The Contractor will require all subcontractors to have in effect at all times insurance coverage as required by the City in Exhibit "A" for negligent acts, errors and omissions of subcontractors and their employees and the City shall be named as an insured party.

12. ASSIGNMENT. The Contractor shall not assign or transfer any interest in this Agreement without the prior written approval of the City.

13. INSURANCE. The Contractor shall carry insurance with limits as required in Exhibit "A" by the City and shall provide to the City a certificate evidencing the same.

14. CONFLICTS OF INTEREST. The Contractor covenants that it has presently no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required to be performed under this Agreement. The Contractor further covenants that in the performance of this Agreement no person having any such interest shall be employed.

15. DISPUTES. Except as otherwise provided in this agreement, any dispute concerning a question of fact arising out of this agreement which is not disposed of by agreement, shall be decided in accordance with Section 17-173 of the City's Procurement Ordinance as set forth in Chapter 17 of the Rockville City Code.

16. GOVERNING LAW. This Agreement is executed in the State of Maryland and shall be governed by Maryland law. The Contractor, by execution of this Agreement, consents to the jurisdiction of the Maryland state courts with respect to any dispute arising out of this agreement and further consents to venue in Montgomery County, Maryland.

17. SUCCESSORS AND ASSIGNS: This Agreement shall be binding and inure to the benefit of all successors and assigns of the parties hereto. Notwithstanding the foregoing, this Agreement shall be considered a personal services contract and the Contractor shall not assign any right or obligation under this Agreement without the City's express written consent which may be withheld in the City's sole and absolute discretion.

18. INDEPENDENT CONTRACTOR. The Contractor shall perform this Agreement as an independent contractor and shall not be considered an agent of the City, nor shall any of the Contractor's employees or agents be subagents of the City.

ATTACHMENT D
SAMPLE CONTRACT FORM – DO NOT RETURN

19. COMPENSATION. The Contractor shall provide to the City the services described in the amount not to exceed *[insert dollar amount in words]* dollars (*\$(insert dollar amount in numbers)*). In the event the labor hours and expenses exceed this amount the Contractor shall complete the tasks with no additional compensation.

20. INVOICING. Invoices for payment shall include a complete description of the services rendered, personnel, hourly rates, hours and date of services. All invoices shall be submitted to the City of Rockville, Attn: *[insert contact and department]*, 111 Maryland Avenue, Rockville, MD 20850-2364.

21. MODIFICATION. This agreement may be modified only by written instrument signed by both parties hereto.

22. ENTIRE AGREEMENT. This agreement, including the exhibits attached hereto, constitutes the entire agreement between the City and the Contractor, and the parties shall not be bound by any prior negotiation, representations or promises, not contained herein.

IN WITNESS WHEREOF, the said (See Note A) and *[insert contractor's full legal name]* COUNCIL have caused these presents to be signed and sealed.

[insert contractor's full legal name]

Signature: _____

(Seal)

(Either owner or partner)

Printed Name: _____

Title: _____

Witness Signature: _____

Printed Name: _____

Title: _____

MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND

By: _____ Date: _____

Robert DiSpirito, City Manager

Attachment D
SAMPLE FORM-DO NOT RETURN

ATTEST

By: _____ Date: _____
Sara Taylor-Ferrell, City Clerk/Director of Council Operations

Approved as to form and legality:

_____ Date: _____
City Attorney

NOTE (A): The CONTRACTOR shall enter the exact legal name of the business. An individual trading as a company shall enter: John Doe dba Doe Masonry Company.

ATTACHMENT E
GENERAL TERMS, CONDITIONS AND INSTRUCTIONS – DO NOT RETURN

1. **TERMS AND CONDITIONS** The terms and conditions of this document govern in event of conflict with any terms of the bidder's proposal, and are not subject to change by reasons of written or verbal statement by the contractor unless accepted in writing. Words and abbreviations which have well known technical or trade meanings are used in accordance with such meanings.
2. **SUBMISSION OF BID** Unless otherwise specified in the solicitation, all bids are to be submitted in a sealed envelope to the Purchasing Office, 111 Maryland Avenue, Rockville, MD 20850. The envelope shall be clearly marked with the invitation for bid number. Unless otherwise specified, the following forms must be submitted:
 - Bid proposal page(s) in duplicate
 - Non-collusion/non-conviction affidavit
 - References, if requested
 - Other forms as requested in the document.

The bid proposal form must be typed or written in ink. Conditional bids and bids containing escalator clauses will not be accepted. All bids must be regular in every respect and no interlineation, exclusions, or special conditions shall be made or included. Bids must contain an original signature, in the space provided, of an individual authorized to bind the bidder.

3. **LATE BIDS** It is the bidder's responsibility to assure delivery of the bid at the proper time to the designated location. Bids delivered to any other office or location will not be considered.
4. **ADDENDUM** In the event that any addenda to this solicitation is issued, all solicitation terms and conditions will remain in effect unless they are specifically changed in the addendum. It is the responsibility of the bidder to make inquiry as to addenda issued. Oral answers to questions relative to interpretation of specifications will not be binding on the City. Such addendums, if issued, will posted at: <http://rockvillemd.gov/Bids.aspx>

Please note, that it is the bidder's responsibility to check this site frequently for Addendums, which may impact pricing, this document's requirements, terms and/or conditions. Failure to acknowledge an addendum on the bid proposal form or to sign and return an Addendum with your response may result in disqualification of proposal.

5. **BID OPENING** All bids received in response to an Invitation for Bid will be opened at the date, time and place specified and publicly read. A tabulation of bids received are posted on the City's website:
<http://rockvillemd.gov/Bids.aspx?CatID=17&txtSort=Category&showAllBids=on&Status=>
6. **ACCEPTANCE OF BIDS** Unless otherwise specified, the City will accept or reject any or all bids or any or all items within ninety (90) days after the date of bid opening, unless extended by mutual consent of all parties.
7. **BIDDER INTEREST IN MORE THAN ONE BID** Multiple bids received in response to a single solicitation from an individual, firm, partnership, corporation, affiliate, or association under the same or different names will be rejected. Reasonable grounds for believing that a bidder is interested in more than one bid for a solicitation both as a bidder and as a subcontractor for another bidder, will result in rejection of all bids in which the bidder is interested. However, a firm acting only as a subcontractor may be included as a subcontractor for two or more bidders submitting a bid for the work. Any or all bids may be rejected if reasonable grounds exist for believing that collusion exists among any bidders. Bidders rejected under the above provisions shall be disqualified if they respond to a re-solicitation for the same work.
8. **PRICES** Bids must be submitted on a firm, fixed price, F.O.B. Destination basis only unless otherwise specified herein.
9. **ERRORS IN BIDS** When an error is made in extending total prices, the unit price will govern. Erasures in bids must be initialed by the bidder.
10. **TAX EXEMPTION** The City is exempt from the payment of any federal excise or any Maryland sales tax.
11. **SPECIFICATIONS** Bidders are expected to be thoroughly familiar with all bid documents, including all addenda. No consideration will be granted for any alleged misunderstanding of the intent of the contract documents. In the process of assembling and binding the bid documents individual pages or drawings may have been inadvertently omitted. Each bidder shall carefully and thoroughly examine these bid documents for completeness. No claim of any bidder will be allowed on the basis that bid documents are incomplete.

ATTACHMENT E
GENERAL TERMS, CONDITIONS AND INSTRUCTIONS – DO NOT RETURN

12. **BID AWARD** The award will be made to the offeror/proposer whose proposal, in the opinion of the City is the best taking into consideration all aspects of the offeror's/proposer's responses, including total net cost to the City. In the event that the offeror/proposer to whom the award is made does not execute a contract within 15 days from receipt of the contract, the City may give notice to such offeror/proposer of intent to award the contract to the next most qualified offeror/proposer, or to call for new proposals.
13. **MULTI-YEAR BIDS** Multi-year contracts may be continued each fiscal year only after funding appropriations have been granted. In the event necessary funding appropriation is not granted, the multi-year contract shall be null and void, effective July 1st of the affected year. Should the vendor decline the City's right to exercise any option period, the City may consider the vendor in default, which may affect that vendor's eligibility for future contracts.
14. **BIDDER'S PAYMENT TERMS** The City will reject as non-responsive a bid under this solicitation, which is conditioned on payment of proper invoices in less than thirty (30) days. However, this does not preclude a bidder from offering a prompt payment discount for payment of proper invoices in less than thirty (30) days.
15. **INTERPRETATION** Any questions concerning terms, conditions and definitions of the contract and bidding regulations shall be directed in writing to the Purchasing Agent. The submission of a bid shall be prima facie evidence that the bidder thoroughly understands the terms of the contract documents. The Contractor shall take no advantage of any error or omission in these contract documents.
16. **BRAND NAME OR EQUAL** Identification of an item by manufacturer's name, trade or brand name, or catalog number is for information and establishment of a quality level desired and is not intended to restrict competition. Bidders may offer any brand which meets or exceeds the specification, unless 'brand name only' is specified. Bids on other makes and/or models will be considered provided the bidder clearly states on the proposal what is being proposed and forwards with the bid complete descriptive literature indicating how the characteristics of the article being offered will meet the specifications. The City reserves the right to accept or reject items offered as an equal.
17. **EXECUTION OF AGREEMENT** Subsequent to award and within fifteen (15) calendar days after the prescribed forms are presented to the Contractor, the Contractor shall execute and deliver to the City the required Agreement and other forms as requested. Failure of the successful bidder to execute the Agreement and supply other required forms within fifteen (15) calendar days shall constitute a default. The City may either award the contract to the next low responsive and responsible bidder or re-advertise the bids, and may charge against the original bidder the difference between the amount of the bid and the amount for which a contract for the work is subsequently executed. If a more favorable bid is received by a re-advertising, the defaulting bidder shall have no claim against the City for a refund.
18. **PLACING OF ORDERS** Orders against contracts will be placed with the Contractor on a Purchase Order (or Procurement Card – currently Mastercard) executed by the Purchasing Agent or designee. Where Master Agreements have been released by the City, orders may be placed directly with the Contractor by authorized personnel in the ordering Department(s). Issuance of all purchase orders will be contingent upon appropriation of funds by the Mayor and Council and encumbrance of such funds after July 1 of each year, as provided by the City Code.
19. **MATERIALS** All materials shall be new and free from defects. They shall be standard products of current manufacture. Unless otherwise noted in the contract documents, the Contractor shall abide by specific manufacturer instructions and recommendations on installation and operation.
20. **DELIVERY** Time is of the essence. All shipments shall be accompanied by Packing Slips or Delivery Tickets and shall contain the following information: 1) the Purchase Order number, 2) Name of the Article and Stock Number, 3) Quantity Ordered, 4) Quantity Shipped, 5) Quantity Backordered, and 5) Name of Contractor.
21. **TRAVEL TIME**
No payment for travel time to or from the job site shall be charged. Charges begin when the Contractor arrives at each job site and end when the Contractor leaves the job site. The Contract Administrator will verify time records.
22. **BILLING** Unless otherwise specified invoices are to be submitted to the "Bill To" address on the Purchase Order immediately upon completion of the shipment or services.
23. **PAYMENT** Payment shall be made after satisfactory performance of the contract/complete delivery in accordance with all of the provisions thereof, and upon receipt of a properly complete invoice. The City reserves the right to withhold any or all payment or portions thereof for Contractor's failure to perform in accordance with the provision of the contract or any modification thereto. The acceptance by the Contractor of the final payment made as aforesaid, shall operate as and be a release to the City and every officer

ATTACHMENT E
GENERAL TERMS, CONDITIONS AND INSTRUCTIONS – DO NOT RETURN

and agent thereof, from all claims by and liabilities to the Contractor for anything done or furnished for or relating to or affecting the work under the contract.

24. ELECTRONIC PAYMENT OPTION

The Vendor ACH Payment Program of the City allows payments to be deposited directly to a designated financial institution account. Funds will be deposited into the account of your choice automatically and on time. All transactions are conducted in a secure environment. The program is totally free as part of the Finance Department's efforts to improve customer services. Program information and registration can be viewed at the following web address: <http://rockvillemd.gov/index.aspx?NID=234>

25. TRANSFER OF TITLE The Contractor warrants that title to all work, materials and equipment will pass to the City upon the receipt of payment by the Contractor, free and clear of all liens, claims, interests or encumbrances.

26. DEFECTIVE MATERIALS/WORKMANSHIP Defective or unsuitable materials or workmanship shall be rejected and shall be made good by the Contractor. If the work shall be found to be defective or to have been damaged before final acceptance, the Contractor shall make good such defect in a manner satisfactory to the City, without extra compensation even though said defect or injury may have not been due to any act or negligence of the Contractor.

27. CHANGES IN QUANTITIES/ITEMS The City reserves the right to add or delete any item(s) from the bid in whole or in part at the City's discretion as given in the Bid or Proposal wherever it deems it advisable or necessary so to do and such changes shall in no way invalidate the contract nor affect the bid prices for any item or remaining work. Unit prices submitted in the bid shall not be increased or decreased regardless of changes in quantity. The City may waive minor differences in specifications in bids provided these differences do not violate the specifications' intent nor materially affect the operation for which the items or services are being purchased.

The Contractor will be paid for the actual amount of authorized work done or material furnished under any item of the bid at the price bid and stipulated for such item. In case any quantity is increased, the Contractor shall not be entitled to any increased compensation over and above the unit price bid for such item, or any claim for damages on account of loss of anticipated profits should any quantities be decreased. The Contractor shall be responsible for confirming the accuracy of the specified quantities prior to ordering materials or supplies and the City's payment shall be based on the actual quantities incorporated in the work and not the quantities specified in the bid document. The quantities must not exceed the contract specified quantities without specific written authorization of the Purchasing Agent and it is the Contractor's responsibility to obtain said authorization.

28. DISPUTES Except as may otherwise be provided by the final agreement, any dispute concerning a question of fact arising under the agreement signed by the City and the Contractor which is not disposed of by the final agreement shall be decided by the City Manager. The Contractor shall be afforded the opportunity to be heard and offer evidence in support of the claim. Pending final decision of the dispute herein, the Contractor shall proceed diligently with performance under the agreement signed by the City and the Contractor. The decision of the City Manager shall be final and conclusive.

29. EXTRA COSTS If the Contractor claims that any instructions by the contract documents or otherwise involve extra compensation or extension of time, a written protest must be submitted to the Purchasing Agent within ten (10) calendar days after receipt of such instructions and before proceeding to execute the work, stating in detail the basis for objection. No such claim will be considered unless so made.

30. LEGAL REQUIREMENTS All materials, equipment, supplies and services shall conform to applicable Federal, State, County and City laws, statutes, rules and regulations. The Contractor shall observe and comply with all Federal, State, County and City laws, statutes, rules and regulations that affect the work to be done. The provisions of this contract shall be governed by the laws of the State of Maryland.

31. INDEMNIFICATION OF THE MAYOR AND COUNCIL The Contractor shall indemnify and save harmless the Mayor and Council from all suits, actions and damages or costs, of every name and description to which the Council may be subjected or put by reason of injury to persons or property as a result of the work, whether caused by negligence or carelessness on the part of the Contractor, or subcontractors or agents thereof.

32. ETHICS REQUIREMENTS In accordance with the City's financial disclosure and ethical conduct policy and/or ordinances a prerequisite for payment pursuant to the terms of this contract is that the Contractor may be required to furnish explicit statements, under oath, that the City Manager, and/or any other officer, agent, and/or employee of the City, and any member of the governing body of the City of Rockville or any member or employee of a Commission, Board, or Corporation controlled or appointed by the City Council, Rockville, Maryland has not received or has not been promised directly or indirectly any financial benefit by way of fee, commission, finder's fee, or in any other manner, remuneration arising from directly or indirectly related to this contract, and that upon request by

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the City Manager, or other authorized agent, as a prerequisite to payment pursuant to the terms of this contract, the Contractor will furnish to the Mayor and Council of the City of Rockville, under oath, answers to any interrogatories to a possible conflict of interest has herein embodied.

33. **TERMINATION FOR CAUSE** The contract may be cancelled or annulled by the City in whole or in part by written notice of default to the Contractor upon nonperformance or violation of contract terms and an award made to next low Bidder, or, articles specified may be purchased on the open market similar to those so terminated. In either event, the defaulting Contractor or his surety shall be liable to the City for costs to the City in excess of the defaulted contract prices.
34. **TERMINATION FOR CONVENIENCE** This Contract may be terminated, in whole or in part, upon written notice to the Contractor when the City determines that such termination is in its best interest. The termination is effective 10 days after the notice is issued, unless a different time is given in the notice. The City is liable only for payment for goods and services delivered and accepted or approved by the City prior to the effective date of the termination.
35. **EMPLOYEES** The Contractor shall employ only competent, skillful persons to do the work, and whenever the Project Manager shall notify the Contractor in writing that any person employed on the work is, in his opinion, incompetent, disobedient, disorderly, discourteous or otherwise unsatisfactory, such person shall be discharged from the work and shall not again be employed for this contract except with the consent of the Project Manager.
36. **LANGUAGE** If applicable, the Contractor shall appoint one or more crewmembers or supervisors to act as liaison with the City and emergency services personnel. All liaisons shall be fluently bilingual in English and the Contractor's employees' language(s), and at least one liaison shall be present at each work site at all times when any of the Contractor's employees or agents are at the site.
37. **SENSITIVE DOCUMENTS** Sensitive documents (either electronic or hardcopy documents dealing with critical facilities or sensitive information) received from the City must be handled consistent with the terms of non-disclosure required for application. Contractor is responsible to restrict use of sensitive documents to project participants only and shall take appropriate measure to prevent distribution of sensitive document to anyone inside or outside of the Contractor's company except Contractor's project participants. After completion of the project, all sensitive documents remaining in the Contractor's possession shall continue to be governed under the terms of non-disclosure and must continue to be stored in a secure manner. After such records are no longer needed for record purposes, the records shall be destroyed or returned to the City. Where services require the Contractor to access the City's electronic information resources and/or its electronic data assets, the Contractor shall adhere to all requirements, terms and conditions of the City's Contractor/Vendor On-Site And Remote Access Confidentiality Agreement, which can be viewed at the following web address: <http://www.rockvillemd.gov/documentcenter/view/74>.
38. **DOCUMENTS, MATERIALS AND DATA** All documents materials or data developed as a result of this contract are the City's property. The City has the right to use and reproduce any documents, materials and data, including confidential information, used in the performance of, or developed as a result of this contract. The City may use this information for its own purposes, including reporting to state and federal agencies. The Contractor warrants that it has title to or right to use all documents, materials or data used or developed in connection with this contract. The Contractor must keep confidential all documents, materials and data prepared or developed by the Contractor or supplied by the City.
39. **IMMIGRATION REFORM AND CONTROL ACT** The Contractor awarded a contract pursuant to this bid shall warrant that it does not and shall not hire, recruit or refer for a fee, for employment under the contract, an alien knowing the alien is an unauthorized alien and hire any individual without complying with the requirements of the Immigration Reform and Control Act of 1986 (the Act), including but not limited to any verification and record keeping requirements. The Contractor shall further assure the City that, in accordance with the Act, it does not and will not discriminate against an individual with respect to hiring, or recruitment or referral for a fee, of the individual for employment or the discharging of the individual from employment because of such individual's national origin or in the case of a citizen or intending citizen, because of such individual's citizenship status.
40. **EQUAL EMPLOYMENT OPPORTUNITY** The Contractor will not discriminate against any employee or applicant for employment because of age (in accordance with applicable law), ancestry, color, national origin, race, ethnicity, religion, disability, genetics, marital status, pregnancy, presence of children, gender, sexual orientation, gender identity or expression, or veteran status. The Contractor will take affirmative action to ensure that applicants are employed, and the employees are treated fairly and equally during employment with regard to the above. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment, layoff or termination, rates of pay or other form of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. Contractors must also include the same nondiscrimination language in all subcontracts.

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If the Contractor fails to comply with nondiscrimination clauses of this contract or fails to include such contract provisions in all subcontracts that subcontractors will not discriminate against any employee or applicant for employment in the manner described above, this contract may be declared void AB INITIO, cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further contracts with the City of Rockville. Any employee, applicant for employment, or prospective employee with information concerning any breach of these requirements may communicate such information to the City Manager who shall commence a prompt investigation of the alleged violation. Pursuant to such investigation, the Contractor will permit access to the Contractor's books, records, and accounts. If the City Manager concludes that the Contractor has failed to comply with nondiscrimination clauses, the remedies set out above may be invoked.

41. **PERMITS AND REGULATIONS** Unless stipulated elsewhere in these specifications, the Contractor shall be responsible for obtaining and paying for all applicable permits. Where signatures of the City are required in connection with the obtaining of such permits, certificates, etc., the Contractor shall prepare the proper paperwork and present it to the City for signature. City of Rockville Permit fees shall be waived. If the Contractor ascertains at any time that any requirement of this contract is at variance with applicable laws, ordinances, regulations and/or building codes, notification to the Project Manager shall be made immediately and any necessary adjustment to the contract shall be made. Without proper notice to the Project Manager, the Contractor shall bear all costs arising from the performance of work the Contractor knows to be contrary to such laws, ordinances, etc.
42. **SERVICE OF NOTICES** The mailing a written communication, notice or order, addressed to the Contractor at the business address filed with the City, or to his office at the site of the work shall be considered as sufficient service upon the Contractor of such communication, notice or order; and the date of said service shall be the date of such mailing. Written notice shall also be deemed to have been duly served if delivered in person to the individual or member of the firm or to any officer of the corporation for whom it was intended if delivered or sent by registered or certified mail to the last known address.
43. **PATENT RIGHTS** Whenever any article, materials, equipment, process, composition, means, or things called for by these specifications is covered by letters of patent, the successful bidder must secure, before using or employing such article, material etc., the assent in writing of the Owner or Licensee of such Letters of Patent and file the same with the City.

The said assent is to cover not only the use, employment, and incorporation of said article, material, equipment, process, composition, combination, means, or thing in the construction and completion of the work but also the permanent use of said article, material, etc., thereafter by or on behalf of the City, in the operation and maintenance of the project for the purposes for which it is intended or adapted. The Contractor shall be responsible for any claims made against the City, its agents and employees or any actual or alleged infringement of patents by the use of any such patented articles, etc., in the construction and completion of the work, and shall save harmless and indemnify the City, its agents and employees from all costs, expenses, and damages, including Solicitor's and Attorney's fees which the City may be obligated to pay by reason of any actual or alleged infringement of patents used in the construction and completion of the work herein specified.

44. **ABANDONMENT OF OR DELAY IN WORK** If the work under the contract shall be abandoned by the Contractor, or if at any time the City shall be of the opinion and shall so certify, in writing, to the Contractor, that the performance of the contract is unnecessarily or unreasonably delayed, or that the Contractor has violated any of the provisions of the contract or is executing the same in bad faith or if the work is not fully completed within the time specified for its completion, together with such extension of time as may have been granted, the City by written notice, may order the Contractor to discontinue all work there under, or any part thereof,

within the number of days specified on such notice. At the expiration of said time the Contractor shall discontinue the work, or such part thereof, and the City shall have the power, by contract, or otherwise, to complete said work and deduct the entire cost thereof from any monies due or to become due the Contractor under the contract. For such completion of work the City may, for itself or its Contractor, take possession of and use or cause to be used any or all materials, tools, and equipment found on the site of said work. When any part of the contract is being carried on by the City, as herein provided, the Contractor shall continue the remainder of the work in conformity with the terms of the contract and in such manner as not to interfere with the City's workmen.

45. **SUBLETTING OR ASSIGNING OF CONTRACT** The City and the Contractor each bind themselves, their partners, successors, assigns and legal representatives of such other parties in respect to all covenants, agreements, and obligations contained in the contract documents. Neither party to the contract shall sublet, sell, transfer, assign or otherwise dispose of the contract or any portion thereof, or of the work provided for therein, or of his right, title or interest therein to any person, firm or corporation without the written consent of the other party, nor shall the Contractor assign any monies due or to become due hereunder without the previous written consent of the City.
46. **SUBCONTRACTING** When allowed, bidders who intend to subcontract any portion of the work including delivery, installation or maintenance will submit to the City prior to the start of work: 1) a description of the items to be subcontracted, 2) all subcontractor names, addresses and telephone numbers and 3) the nature and extent of the work utilized during the life of the contract. This does

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not relieve the contractor from the prime responsibility of full and complete performance under the contract. There shall be no contractual relationship between the City and any subcontractor.

47. **NO WAIVER OF CONTRACT** Neither the acceptance by the City nor any order, measurement, certificate or payment of money, of the whole or any part of the work, nor any extension of time nor possession taken by the City shall operate as a waiver of any portion of the contract, or any right to damage therein provided. The failure of the City to strictly enforce any provision of this contract shall not be a waiver of any subsequent breach of the same or different nature.
48. **MEASUREMENT OF WORK AND MATERIAL** The work and material to be paid for will be measured and determined by the City according to the specifications and drawings. No allowance will be made for any excess above the quantities required by the specifications and drawings on any part of the work, except where such excess material has been supplied or work done by order of the City and in the absence of default or negligence on the part the Contractor. Should the dimensions of any part of the work or of the materials be less than those required by the drawings or the directions of the City, only the actual quantities placed will be allowed in measurement.
49. **CONTINGENT ITEMS & QUANTITIES** Items and quantities identified as being contingent are provided in the contract for use when and as directed by the City. These items are established for the purpose of obtaining a bid price. The quantities for these contingent items may be increased or decreased without any adjustment to the contract unit price bid or the contingent items may be deleted entirely from the contract by the City. The Contractor shall submit no claim against the City for any adjustment to the contract unit price bid, should the contingent items be increased, decreased or eliminated entirely. Payment for any contingent items used will be made on the basis of the quantities as actually measured and as specified in the Specifications.
50. **GUARANTEE PERIOD** The Contractor shall warrant and guarantee the work required under this contract for a period of twelve (12) months from the date of Final Acceptance. The Contractor warrants and guarantees to the City, that materials and equipment furnished under the contract shall be of good quality and new unless otherwise required or permitted by the contract documents, that all work will be in accordance with the contract documents, and that all work will be of good quality, free from faults and defects. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the City, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

The Contractor's obligation to perform and complete the work in a workmanlike manner, free from faults and defects and in accordance with the contract documents shall be absolute. The Contractor shall remedy, at his own expense, and without additional cost to the City, all defects arising from either workmanship or materials, as determined by the City, or City's representative. The obligations of the Contractor under this Paragraph shall not include normal wear and tear under normal usage.

If the Contractor does not, within ten (10) days after notification from the City, signify his intention in writing or inaction to correct work, as described above, then the City may proceed with the work and charge the cost thereof to the account of the contract as herein before provided.

Warranty documents shall be furnished by the Contractor and shall be delivered to the City before final payment is made.